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the Governor of the state or that Governor's designee, shall contain the following information and shall be attested to by a person having personal knowledge of the matters contained therein:

- (a) The Governor's name.
- (b) The state's name and the name of any agency filing on behalf of the Governor.
- (c) The full address of the solid waste rail transfer facility, or, if not available, the city, state, and United States Postal Service ZIP code.
- (d) The name of the rail carrier that owns or operates the facility.
- (e) A good-faith certification that the facility qualifies as a solid waste rail transfer facility pursuant to the definition in 49 U.S.C. 10908(e)(1)(H) and 49 CFR 1155.2 both as of the filing date of the petition and on October 16, 2008.
- (f) Relief sought (that the rail carrier that owns or operates the facility be required to apply for a land-use-exemption permit).
- (g) Name, title, and address of representative of petitioner to whom correspondence should be sent.

§ 1155.11 Filing and service of petition.

(a) When the petition is filed with the Board, the petitioner shall serve, by first class mail, a copy of the petition on the rail carrier that owns or operates the solid waste rail transfer facility and on the facility if the address is different than the rail carrier's address. A copy of the certificate of service shall be filed with the Board at the same time.

(b) Upon the filing of a petition, the Board will review the petition and determine whether it conforms to all applicable regulations. If the petition is substantially incomplete or its filing otherwise defective, the Board will reject the petition for stated reasons by order (which order will be administratively final) within 15 days from the date of filing of the petition.

§ 1155.12 Participation in petition proceedings.

(a) An interested person may file a reply to the petition challenging the Governor's classification of the facility as a solid waste rail transfer facility and may offer evidence to support its

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contention. The petitioner will have an opportunity to file a rebuttal.

(b) Filing and service of replies.

(1) Any reply shall be filed with the Board (the Secretary, Surface Transportation Board, 395 E Street, SW., Washington, DC 20423) within 20 days of the filing with the Board of a petition to require a solid waste rail transfer facility in existence on October 16, 2008, to apply for a land-use-exemption permit.

(2) A copy of the reply shall be served on petitioner or its representative at the time of filing with the Board. Each filing shall contain a certificate of service.

(3) Any rebuttal to a reply shall be filed and served by petitioner no later than 30 days after the filing of the petition.

§ 1155.13 Board determination with respect to a Governor's petition.

(a) The following schedule shall govern the process for Board consideration of and decisions regarding a petition to require a solid waste rail transfer facility in existence on October 16, 2008, to apply for a land-use-exemption permit, from the time the petition is filed until the time of the Board's decision on the merits:

Day 0—Petition filed.

Day 20—Due date for reply.

Day 30—Due date for response to reply.

(b) The Board shall accept the Governor's complete petition on a finding that the facility qualifies as a solid waste rail transfer facility pursuant to the definition in 49 U.S.C. 10908(e)(1)(H) and 49 CFR 1155.2 both on the filing date of the petition and on October 16, 2008. In the decision accepting the Governor's petition, the Board shall require that the rail carrier that owns or operates the facility file a land-use-exemption-permit application within 120 days of the service date of the decision.

Subpart C—Procedures Governing Applications for a Land-Use-Exemption Permit

§ 1155.20 Notice of intent to apply for a land-use-exemption permit.

(a) *Filing and publication requirements.* An applicant (*i.e.*, a solid waste rail

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transfer facility, or the rail carrier that owns or operates the facility) shall give Notice of Intent to file a land-use-exemption permit application by complying with the following procedures:

(1) *Filing.* Applicant must serve its Notice of Intent on the Board in the format prescribed in 49 CFR 1155.21. The Notice of Intent shall be filed in accordance with the time requirements of paragraph (b) of this section.

(2) *Service.* Applicant must serve, by first-class mail (unless otherwise specified), its Notice of Intent upon:

(i) The Governor of the state where the facility is located;

(ii) The state agency/ies and/or municipal agency/ies that would have permitting or review authority over the solid waste rail transfer facility absent 49 U.S.C. 10908 and 10909, these regulations, and federal preemption under 49 U.S.C. 10501(b); and

(iii) The appropriate managing government agencies responsible for the groups of land listed in 49 U.S.C. 10909(c)(2).

(3) *Newspaper publication.* Applicant must publish its Notice of Intent at least once during each of 3 consecutive weeks in a newspaper of general circulation in each county in which any part of the proposed or existing facility is located.

(b) *Time limits.* (1) The Notice of Intent must be served on the parties discussed above at least 15 days, but not more than 30 days, prior to the filing of the land-use-exemption permit application;

(2) The three required newspaper Notices must be published within the 30-day period prior to the filing of the application; and

(3) The Notice of Intent must be filed with the Board either concurrently with service on the required parties or when the Notice is first published (whichever occurs first).

(c) *Environmental and Historic Reports.* Applicant for a solid waste rail transfer facility, other than those in existence on October 16, 2008, must also submit an Environmental Report containing the information described at 49 CFR 1105.7 at least 20 days prior to filing an application. Applicants shall concurrently file an historic report con-

taining the information at 49 CFR 1105.8 if that regulation is applicable. The environmental and historic reporting requirements that would otherwise apply are waived, however, if the applicant hires a third-party consultant, the Board's Section of Environmental Analysis (SEA) approves the scope of the consultant's work, and the consultant works under SEA's supervision to prepare any environmental documentation that might be warranted. In such a case, the consultant acts on behalf of the Board, working under SEA's direction to collect the needed environmental information and compile it into a draft of the appropriate environmental documentation (an Environmental Impact Statement or a more limited Environmental Assessment). See 49 CFR 1105.10(d).

§ 1155.21 Form of notice.

The Notice of Intent to petition for a land-use-exemption permit shall be in the following form:

STB Finance Docket No. ____ (Sub-No. ____)

Notice of Intent to petition for a land-use-exemption permit for a solid waste rail transfer facility.

(Name of Applicant) gives notice that on or about (insert date application will be filed with the Board) it intends to file with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423, an application for a land-use-exemption permit for a solid waste rail transfer facility as defined in 49 U.S.C. 10908(e)(1)(H) and 49 CFR 1155.2. The solid waste rail transfer facility is located at (full address, or, if not available, provide city, state, and United States Postal Service ZIP code). The solid waste rail transfer facility is located on a line of railroad known as ____ at milepost ____ between (station name) at milepost ____ and (station name) at milepost ____.

The reason(s) for the proposed permit application is (are) ____ (explain briefly and clearly the activities undertaken, or proposed to be undertaken, by the applicant at the solid waste rail transfer facility. Also describe the specific state and local laws, regulations, orders or other requirements affecting siting from which the applicant requests entire or partial exemption that would otherwise apply and any action that the state, local, or municipal authority has taken affecting the siting of the facility.)